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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

ANIAK TRADITIONAL COUNCIL, )  
)  
Plaintiffs, )  
v. )  
)  
STATE OF ALASKA DEPARTMENT OF )  
TRANSPORTATION AND PUBLIC )  
FACILITIES, COMMISSIONER RYAN )  
ANDERSON, IN HIS OFFICIAL CAPACITY, )  
UNIVERSITY OF ALASKA SYSTEM, )  
UNITED STATES OF AMERICA, )  
MICHAEL WHITAKER, IN HIS OFFICIAL )  
CAPACITY, )  
)  
Defendants. )  
\_\_\_\_\_ )

Case No.: \_\_\_\_\_

**COMPLAINT**

COMES NOW Plaintiff Aniak Traditional Council, through counsel, and for their  
complaint, states and alleges as follows:

## **PARTIES**

1. Aniak Traditional Council (“ATC”) is the governing body of the Village of Aniak, a recognized Alaska Native Tribe pursuant to 89 Fed. Reg. 994.

2. Defendant State of Alaska Department of Transportation and Public Facilities (“DOTPF”) is a department of the State of Alaska.

3. Defendant Ryan Anderson is the current Commissioner of the DOTPF acting in his official capacity.

4. Defendant University of Alaska System (“UAS”) is a public corporation established under the Alaska Constitution and an instrumentality of the State of Alaska.

5. The Federal Aviation Administration (“FAA”) is a department of the United States of America.

6. Defendant Michael Whitaker is the current Administrator of the FAA acting in his official capacity.

## **JURISDICTION AND VENUE**

7. This Court has federal jurisdiction pursuant to 25 U.S.C. § 3013 and 28 U.S.C. § 1362.

## **FACTS AS TO ALL COUNTS**

8. On information and belief, the State of Alaska through DOTPF owns and operates the Aniak Airport in Aniak, Alaska.

9. The FAA controls and regulates certain operations, designs, construction, and maintenance at the Aniak Airport.

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10. Such control includes the regulation and enforcement of runway standards and airport lighting aids.

11. In 2016, the FAA approved construction of a runway relocation project at the Aniak Airport to address noncompliance with numerous FAA safety requirements.

12. A portion of the project required the construction of trenches for installing powerline conduit and relocation of navigational aids.

13. On September 8, 2020, a contractor working on these trenches discovered what appeared to be human remains.

14. On information and belief, conduit is still located next to the remains today.

15. The FAA considers the remains to be potential cultural items under the Native American Graves Protection and Repatriation Act (“NAGPRA”).

16. In August 2021, the ATC contracted with Knik Construction Co., Inc. to perform archaeological data recovery of the remains.

17. The FAA allocated three (3) days in which the archeological data could be excavated.

18. Excavation was only possible on two (2) days due to heavy flooding and collapse of the trench walls, however, the excavation was successful in confirming that the remains were found *in-situ*.

19. The archaeological data recovery determined that the trench and conduit cut through a previously intact prehistoric burial site of high scientific and cultural significance.

20. The remains and Alaska Native artifacts that were recovered were sent to the UAS for further research and identification.

21. The remains are believed to be ancestors of the Aniak Tribe.

22. Only partial remains were recovered and additional remains and artifacts are known to remain at the site.

23. The UAS has maintained possession of the remains and FAA has refused to assist in the return and proper burial of the remains.

24. Since the 2021 excavation, DOTPF and the FAA have prevented the ATC and archaeologist from performing additional excavations to recover additional artifacts and remains.

25. The remains and artifacts are at risk of further disruption and damage due to ongoing airport operations and maintenance, their proximity to the runway, and their proximity to required airport lighting aids and conduit.

26. The remains of Tribal ancestors have deep cultural and religious significance to the Aniak Tribe. The disturbance and separation of the remains, and inability of the ATC to fully recover their ancestors or freely access or relocate them to a freely accessible location prevents the ATC from practicing their cultural and religious traditions in violation of 42 U.S.C. § 2000bb-1, 42 U.S.C. § 2000cc(b)(3), and Executive Order 13007.

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### **COUNT I**

27. By failing to allow the ATC to freely access, recover, and relocate the remains, the FAA, DOTPF, Administrator Michael Whitaker and Commissioner Ryan Anderson, have prevented the ATC from practicing their cultural and religious traditions in violation of 42 U.S.C. § 2000bb-1, 42 U.S.C. § 2000cc(b)(3), and Executive Order 13007.

### **COUNT II**

28. By failing to secure and protect the remains, the FAA, DOTPF, Administrator Michael Whitaker and Commission Ryan Anderson, the remains and artifacts may suffer irreparable damage due to ongoing operations at the Aniak Airport in violation of 43 C.F.R. 10.5.

### **COUNT III**

29. By failing to return the remains upon the request of ATC, the University of Alaska System has unlawfully retained the remains in violation of 43 C.F.R. 10.7.

WHEREFORE, the Aniak Traditional Council prays for relief as follows:

1. For injunctive relief pursuant to Fed. R. Civ. P. 65 allowing the ATC and its contractors and designees access to the burial site on lands controlled by the DOTPF and the FAA for the protection, recovery, and relocation of disturbed Alaska Native remains and artifacts.

2. For a writ of mandamus ordering Commission Ryan Anderson and Administrator Michael Whitaker to perform their statutory duties under 43 C.F.R. § 10.5

and allow the ATC to access the Aniak Airport for the protection and recovery of Alaska Native remains and artifacts.

3. For injunctive relief pursuant to Fed. R. Civ. P. 65 ordering the return of the recovered remains and artifacts from the UAS.

4. For such other and further relief as this Court may deem just and equitable in the premises.

DATED at Anchorage, Alaska, this 27<sup>th</sup> day of June, 2024.

FORTIER & MIKKO, P.C.  
Attorneys for Plaintiff, Aniak Traditional  
Council

By: /s/ Samuel J. Fortier  
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